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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,221	06/27/2003	Peter R. Van Tyle	MAEE 2 00049	7552

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EXAMINER

OSELE, MARK A

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/609,221

Applicant(s)

VAN TYLE ET AL.

Examiner

Mark A. Osele

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-12, 17, 18, 20-25, 31-42, 44 and 61-70 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 17, 18, 20-25, 31-42, 44 and 64-70 is/are allowed.
6) ☒ Claim(s) 6-10, 61 and 63 is/are rejected.
7) ☒ Claim(s) 11, 12, 62 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6-10 and 61, 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niermann '974 in view of Samuelson '238. Niermann '974 shows a tape dispenser comprising an annular support, 44, for a roll of tape and a radially extending dispensing arm, 56, having a top and a bottom, said bottom including a tape guide along which tape is dispensed, the tape guide having an outer end, laterally spaced apart opposite sides and a central portion, 78, between and spaced below said sides for imparting a concave contour to the tape. Niermann '974 further shows a tape applicator, 90, with a serrated cutting edge, 88, forward of the outer end of the bottom. Niermann '974 fails to show ribs.

Samuelson '238 shows a tape dispenser with four parallel, longitudinally extending ribs, 22, projecting from the bottom, 17, of the dispensing arm (column 3, lines 1-14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the ribs of Samuelson '238 into the apparatus of Niermann '974 because Samuelson '238 shows these ribs to be useful for holding the cutting blade and because the ribs would add structural stability to the dispensing arm.

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Regarding claims 7, 9-10, 61 Samuelson '238 also shows tape retaining tabs, 30, with tape retaining surfaces, 32. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the tape retaining tabs of Samuelson in to the apparatus of Niermann '974 because Samuelson shows that tabs help maintain the cut end of the tape adjacent the guide surface and out of contact of the surface of the roll when not in use (column 6, lines 2-19).

Regarding claim 63, the arcuate wall, 34, of Samuelson '238 is movable toward the tape roll to provide a braking function (column 5, lines 23-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the brake of Samuelson '238 into the apparatus of Niermann '974 to completely stop the dispensing of the tape during tape cutting.

3. Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niermann '974 in view of Samuelson '238 as applied to claim 63 above, and further in view of Lin '375. Lin show a tape dispenser with a manually operable brake of compressible plates 33A and 33B pressing a portion of a wall against the hub. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the known brake of Lin into the apparatus of the references as combined because braking of the roll prevents free wheeling of the tape (column 3, lines 20-43).

Allowable Subject Matter

4. Claims 11, 12 and 62 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 17-18, 20-25, 31-42, 44, and 64-70 allowed.

Response to Arguments

6. Applicant's arguments filed June 22, 2005 have been fully considered but they are not persuasive. Applicants argue that a combination of Niermann with Samuelson would be inoperable because the apparatus of Niermann requires a window through which a user presses the tape with his or her finger and adding ribs to the dispensing arm would block this window. Niermann can accommodate both the required window and the advantageous ribs of Samuelson. The ribs of Samuelson extend only a short distance from the blade toward the roll support. Ribs of this length could be placed between the blade and window in the dispensing arm of Niermann.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

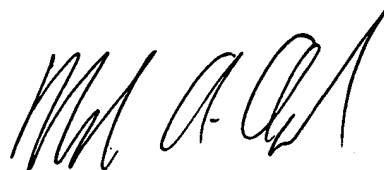
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Osele whose telephone number is 571-272-1235. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'M. A. Osele', is positioned above the printed name.

MARK A. OSELE
PRIMARY EXAMINER

September 19, 2005